

37 Am. Jur. 2d Fraud and Deceit § 70

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Fraud and Deceit

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IV. False Representations

B. Necessity that Representation Be of Fact; Opinions

2. Distinctions Between Statements of Fact and Opinion

§ 70. Questions of law or fact

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

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While, as a general rule, the question as to whether a particular statement is one of fact or opinion is for the jury, this is not always so, for cases frequently arise that are so plainly of one class or the other that they can be disposed of by the court without the aid of the jury.¹ It is, however, often impossible to state as a matter of law whether a statement is an expression of the opinion of the speaker or a representation of fact to be relied upon as made within his or her knowledge, and when such is the case, the question is one of fact.²

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Footnotes

¹ [Batchelder v. Birchard Motors, Inc.](#), 120 Vt. 429, 144 A.2d 298 (1958).

² [Thompson v. United Companies Lending Corp.](#), 699 So. 2d 169 (Ala. Civ. App. 1997); [Pacific Gas & Elec. Co. v. Almanzo](#), 22 Ariz. 431, 198 P. 457 (1921); [Foreman & Clark Corp. v. Fallon](#), 3 Cal. 3d 875, 92 Cal. Rptr. 162, 479 P.2d 362 (1971).
As to the status of particular representations as statements of fact or opinion, see §§ [137](#) to [193](#).